

# SENATE NO. 1059

## **AN ACT** TO CLARIFY THE LAW PROTECTING EMPLOYEE COMPENSATION

*Be it enacted by the Senate and House of Representatives in General Court assembled,  
And by the authority of the same, as follows:*

1 SECTION 1. Section 27 of chapter 149 of the General Laws, as appearing in the 2004 Official  
2 Edition is hereby amended by striking out the last paragraph and inserting in place thereof the  
3 following paragraph:-

4 Any employee claiming to be aggrieved by a violation of this section may, at the expiration of  
5 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general  
6 assents in writing, and within 3 years after the violation, institute and prosecute in his own name  
7 and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive  
8 relief, for any damages incurred, and for any loss of wages and other benefits. Any employee so  
9 aggrieved and who prevails in such an action shall be awarded triple damages, as liquidated  
10 damages, for any loss of wages and other benefits; and the employee shall also be awarded the costs  
11 of the litigation and reasonable attorneys' fees.

12 SECTION 2. Section 27F of said chapter 149, as so appearing, is hereby amended by striking  
13 out the last paragraph and inserting in place thereof the following paragraph:-

14 Any employee claiming to be aggrieved by a violation of this section may, at the expiration of  
15 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general

16 assents in writing, and within 3 years after the violation, institute and prosecute in his own name  
17 and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive  
18 relief, for any damages incurred, and for any loss of wages and other benefits. Any employee so  
19 aggrieved and who prevails in such an action shall be awarded triple damages, as liquidated  
20 damages, for any loss of wages and other benefits; and the employee shall also be awarded the costs  
21 of the litigation and reasonable attorneys' fees.

22 SECTION 3. Section 27G of said chapter 149, as so appearing, is hereby amended by  
23 striking out the last paragraph and inserting in place thereof the following paragraph:-

24 Any employee claiming to be aggrieved by a violation of this section may, at the expiration of  
25 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general  
26 assents in writing, and within 3 years after the violation, institute and prosecute in his own name  
27 and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive  
28 relief, for any damages incurred, and for any loss of wages and other benefits. Any employee so  
29 aggrieved and who prevails in such an action shall be awarded triple damages, as liquidated  
30 damages, for any loss of wages and other benefits; and the employee shall also be awarded the costs  
31 of the litigation and reasonable attorneys' fees.

32 SECTION 4. Section 27H of said chapter 149, as so appearing, is hereby amended by  
33 striking out the last paragraph and inserting in place thereof the following paragraph:-

34 Any employee claiming to be aggrieved by a violation of this section may, at the expiration of  
35 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general  
36 assents in writing, and within 3 years after the violation, institute and prosecute in his own name  
37 and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive  
38 relief, for any damages incurred, and for any loss of wages and other benefits. Any employee so

39 aggrieved and who prevails in such an action shall be awarded triple damages, as liquidated  
40 damages, for any loss of wages and other benefits; and the employee shall also be awarded the costs  
41 of the litigation and reasonable attorneys' fees.

42 SECTION 5. Section 150 of said chapter 149, as amended by section 2 of chapter 99 of the  
43 acts of 2005, is hereby further amended by striking out the last paragraph and inserting in place  
44 thereof the following paragraph:-

45 Any employee claiming to be aggrieved by a violation of sections 33E, 148,  
46 148A, 148B, 150C, 152, 152A or 159C or section 19 of chapter 151 may, at the expiration of  
47 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general  
48 assents in writing, and within 3 years after the violation, institute and prosecute in his own name  
49 and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive  
50 relief, for any damages incurred, and for any loss of wages and other benefits. Any employee so  
51 aggrieved and who prevails in such an action shall be awarded triple damages, as liquidated  
52 damages, for any loss of wages and other benefits; and the employee shall also be awarded the costs  
53 of the litigation and reasonable attorneys' fees.

54 SECTION 6. The first paragraph of section 1B of chapter 151 of the General Laws, as  
55 appearing in the 2004 Official Edition, is hereby amended by striking out the second sentence and  
56 inserting in place thereof the following 3 sentences:- In addition, if any person is paid by an  
57 employer less than the overtime rate of compensation, the person may institute and prosecute in his  
58 own name and on his own behalf, or for himself and for others similarly situated, a civil action for  
59 injunctive relief, for any damages incurred, and for the full amount of the overtime rate of  
60 compensation less any amount actually paid to him by the employer. Any agreement between that  
61 person and the employer to work for less than the overtime rate of compensation shall be no defense

62 in such an action. Any employee so aggrieved and who prevails in such an action shall be awarded  
63 triple damages, as liquidated damages, for any loss of overtime compensation; and the employee  
64 shall also be awarded the costs of the litigation and reasonable attorneys' fees.

65 SECTION 7. The first paragraph of section 20 of said chapter 151, as so appearing, is hereby  
66 amended by striking out the first sentence and inserting in place thereof the following 3 sentences:-

67 If any person is paid by an employer less than the minimum fair wage to which the person is  
68 entitled under or by virtue of a minimum fair wage regulation, or less than \$1.85 per hour in any  
69 manufacturing occupation or in any other occupation not covered by a minimum fair wage  
70 regulation; the person may institute and prosecute in his own name and on his own behalf, or for  
71 himself and for others similarly situated, a civil action for injunctive relief, for any damages  
72 incurred, and for the full amount of the minimum wages less any amount actually paid to him by the  
73 employer. Any agreement between the person and the employer to work for less than the minimum  
74 wage shall be no defense in such an action. Any employee so aggrieved and who prevails in such  
75 an action shall be awarded triple damages, as liquidated damages, for any loss of minimum wage;  
76 and the employee shall also be awarded the costs of the litigation and reasonable attorneys' fees.

77 SECTION 8. This act is intended to clarify the existing law and to reiterate the original  
78 intention of the general court that triple damages are mandatory.